

Common Liability Pay Attention Out There!

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Open Your Eyes and Free Your Mind

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<http://www.youtube.com/watch?v=uGQF8LAmiaE>

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Caveat

These materials are provided for informational purposes only and are not to be construed as legal advice. You should seek independent counsel to resolve any individualized legal matters.



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Pay Attention

If you are going to put up a sign make sure it is pointing in the right direction!



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<http://www.youtube.com/watch?v=zFE5AGryL7A>

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ADA Navigation

Does your building feel like this?



*I borrowed some of this information from a presentation by the State of Utah, Division of Risk Management

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- ▶ The Americans With Disabilities Act (ADA) is a very complex area.
- ▶ This topic has found its way into this presentation to illustrate the fact that we need to change our field of vision and outlook to perceive dangers not always readily apparent.

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Two Quick Examples

Display cases



Stairs



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Slip, Trip and Fall

- ▶ At times we are just too good at our jobs.
- ▶ Even though we may have done nothing wrong people may look for somebody to blame for an embarrassing situation.

The next couple of videos are illustrative.

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- ▶ <http://www.youtube.com/watch?v=G93hn2RSplw>

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- ▶ <http://www.youtube.com/watch?v=bGpVpsalt pU>

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Good Place To Start

Remember we are government. Thus, immunity applies unless waived. This has been accomplished in some instances by the Governmental Immunity Act of Utah. Utah State Code Title 63G Chapter 7

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U.C.A. 63G-7-301

Waivers of Immunity - Exceptions.

As stated in the beginning of this presentation all of the facts are needed to determine any liability. Hypotheticals are illustrative but can be easily distinguishable. That said, here are some excerpts from the waiver statute.

- "Except as provided in Subsection (3)(b), immunity from suit...is waived as to any injury caused by: a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement." U.C.A. 63G-7-301(3)

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There are always exceptions!

U.C.A. 63G-7-301(3)(b) states, "Immunity from suit of each governmental entity is not waived if the injury arises out of, in connection with, or results from:

(i) a latent dangerous or latent defective condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

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Remember the incident management employee?

U.C.A. 63G-7-301(4) states, "Immunity from suit of each governmental entity is waived as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment."



Just remember all of the facts would be considered before liability is determined.

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School Crossings

We all want our kids to make it to and from school safely.

But sometimes no matter how much we do accidents may occur.

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<http://www.youtube.com/watch?v=fx5pXOswD4c>

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Statutory Reference



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U.C.A. 41-6a-303

- (1) As used in this section "reduced speed school zone" means a designated length of a highway extending from a school zone speed limit sign with warning lights operating to an end school zone sign.
- (2) The Department of Transportation for state highways and local highway authorities for highways under their jurisdiction:
- (a) shall establish reduced speed school zones at elementary schools after written assurance by a local highway authority that the local highway authority complies with Subsections (3) and (4); and
 - (b) may establish reduced speed school zones for secondary schools at the request of the local highway authority.
- (3) For all reduced speed school zones on highways, including state highways within the jurisdictional boundaries of a local highway authority, the local highway authority shall:
- (a)
 - (i) provide shuttle service across highways for school children; or
 - (ii) provide, train, and supervise school crossing guards in accordance with this section;
 - (b) provide for the:
 - (i) operation of reduced speed school zones, including providing power to warning lights and turning on and off the warning lights as required under Subsections (4) and (5); and
 - (ii) maintenance of reduced speed school zones except on state highways as provided in Section 41-6a-302; and
 - (c) notify the Department of Transportation of reduced speed school zones on state highways that are in need of maintenance.
- (4) While children are going to or leaving school during opening and closing hours all reduced speed school zones shall have:
- (a) the warning lights operating on each school zone speed limit sign; and
 - (b) a school crossing guard present if the reduced speed school zone is for an elementary school.
- (5) The warning lights on a school zone speed limit sign may not be operating except as provided under Subsection (4).
- (6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules establishing criteria and specifications for the:
- (i) establishment, location, and operation of school crosswalks, school zones, and reduced speed school zones;
 - (ii) training, use, and supervision of school crossing guards at elementary schools and secondary schools; and
 - (iii) content and implementation of child access routing plans under Section 53A-3-402.
- (b) If a school crosswalk is established at a signalized intersection in accordance with the requirements of this section, a local highway authority may reduce the speed limit at the signalized intersection to 20 miles per hour for a highway under its jurisdiction.
- (7) Each local highway authority shall pay for providing, training, and supervising school crossing guards in accordance with this section.

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U.C.A. 41-6a-302

In accordance with Section 72-3-109, a **highway authority** shall place and maintain traffic-control devices:

- (1) in conformance with the standards and specifications adopted under **Section 41-6a-301** on all highways under the highway authority's jurisdiction; and
- (2) as the highway authority finds necessary to:
 - (a) carry out the provisions of:
 - (i) this chapter; or
 - (ii) a local traffic ordinance if the highway authority is a local highway authority; or
 - (b) regulate, warn, or guide traffic.

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Definition of "Highway Authority"

- ▶ U.C.A. 41-6a-102 states "Highway authority" has the same meaning as defined in Section 72-1-102
- ▶ U.C.A. 72-1-102 defines highway authority as "the department of the legislative, executive, or governing body of a county or municipality."

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U.C.A. 41-6a-301

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules consistent with this chapter adopting standards and establishing specifications for a uniform system of traffic-control devices used on a highway.
- (2) The standards and specifications adopted under Subsection (1) shall:
 - (a) include provisions for school crossing zones and use of school crossing guards; and
 - (b) correlate with, and where possible conform to, the system set forth in the most recent edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" and other standards issued or endorsed by the federal highway administrator.

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Traffic Controls For School Zones

This manual can be found on the web:

<http://www.udot.utah.gov/main/uconowner.gf?n=8656619982458274>

The Purpose section of the manual states:

"To assure uniform design and application of all types of traffic control devices, Utah Code Annotated (UCA) Section 41-6a-301, requires the Utah Department of Transportation to create a rule establishing a manual and specifications for a uniform system of traffic control devices. The State of Utah adopts its manual by administrative rule (Utah Administrative Code R920-1-1), which is the Utah Manual on Uniform Traffic Control Devices (MUTCD). In addition, UCA Section 41-6a-301(2), requires the Utah Department of Transportation to create a rule establishing a manual and specifications for a uniform system of traffic control devices, school crossing guards, and child access routing plans (referred to herein as a "Student Neighborhood Access Program" or SNAP plans) for School Zones. This Manual satisfies that requirement."

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UDOT School Zone Brochure

<http://www.udot.utah.gov/main/uconowner.gf?n=200508221309131>

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Other UDOT Traffic Information Brochures:

- Speed Limits
- Traffic Signals
- Left Turn Traffic Signals
- Pedestrian Signals
- Work Zone Safety

For More Information:

Please contact a UDOT Region Traffic Engineer located in your area of the State:

Northern Utah	(801) 620-1600
Salt Lake County	(801) 975-4900
Utah County	(801) 227-8000
Southern Utah	(435) 893-4799

Or visit the UDOT website at <http://www.udot.utah.gov>

How can you help improve School Zone safety?

School Community Councils
Utah state law requires each public school to establish a School Community Council. Among other responsibilities, the School Community Council is responsible to establish a child access routing plan. The Council includes both parents and employees of the school. Participation from the public to the Councils are encouraged.

School Traffic Safety Committees
In addition, each school district is required by law to establish a School Traffic Safety Committee. The Committee includes school employees, PTA representatives, city or county officials, law enforcement, and UDOT when appropriate. Each School Community Council reports to the district School Traffic Safety Committee. Responsibilities of the Committee include approving the child access routing plans created by the School Community Councils. Comments and suggestions from the public to the School Traffic Safety Committees are also encouraged.

If your child's school does not have a child access routing plan, they need your help! Volunteer to serve in one of these groups — Get involved!



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SCHOOL ZONE SAFETY




Division of Traffic and Safety

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School Zones

In 1992, the Utah Legislature passed the "School Zone Safety Act." The Act included several measures to improve the safety of pedestrians in the vicinity of Utah's schools. Under this law, UDOT has developed statewide standards for the location, design, and operation of school zones. Each school is responsible to prepare a child access routing plan. This plan, which includes a map, describes recommended walking routes to school including all school crossings and traffic controls. This brochure provides a summary of the state law and the standards pertaining to School Zones.

What are the laws pertaining to School Zones?

The School Zone Safety Act includes the laws governing both the establishment and use of all types of School Zones. It establishes uniform signing and enforcement of Reduced Speed School Zones. Flashing lights are required during the hours of operation of the reduced speed limit. The fines for violating the reduced speed limit can rise as high as \$275 for the first offense, and \$525 for the second offense.

What is a School Zone?

Two common types of School Zones are School Crosswalk Zones and Reduced Speed School Zones.

School Crosswalk Zone

A School Crosswalk Zone is a special pedestrian crossing intended to protect school children as they cross the road. Typical signing includes the School Advance Warning Assembly and the School Crosswalk Warning Assembly (pictured).

Reduced Speed School Zone

A Reduced Speed School Zone establishes a 20 mph speed limit on the approach to a school crosswalk. The speed limit is reduced to 20 mph while the flashers are flashing. The school zone speed limit of 20 MPH applies from the School Speed Limit Assembly to the "End School Zone" sign (pictured).

How is a Reduced Speed School Zone established?

UDOT has developed specific standards for school zones as required by Utah law. These standards have been adopted as a School Zone Supplement to the "Manual on Uniform Traffic Control Devices" (MUTCD). This Supplement is titled "Utah Traffic Controls for School Zones" and is available on the UDOT Website at www.udot.utah.gov. Use of the School Zone Supplement ensures the same standards for all school zones throughout the state so that drivers become familiar with the standard location, signs, and operation of School Zones.

Warrant processes have been established for School Zones, including School Crosswalk Zones and Reduced Speed School Zones, to determine their appropriate use. School Zones cannot be used indiscriminately, as their improper use would result in driver indifference.

A School Crosswalk Zone must be warranted before a Reduced Speed School Zone can be considered. The warrant criteria for a School Crosswalk requires a minimum of 10 school children using a crosswalk and an average daily traffic of at least 500 vehicles on the road. Crosswalks not meeting this criteria are marked as regular pedestrian crosswalks.

Once a School Crosswalk Zone is warranted, an engineering study can be performed to determine if a Reduced Speed School Zone is

warranted. The study considers:

- Vehicular and pedestrian volumes;
- Available gaps in traffic;
- The posted speed limit on the road;
- The presence of a stop sign or traffic signal at the school crosswalk; and,
- The type of school: elementary, middle, or high school.

What are the common signs used in School Zones?

The School Advance Warning Assembly is placed in advance of School Crosswalk Zones and Reduced Speed School Zones to warn drivers that they are entering a School Zone. Drivers should have a heightened awareness of pedestrians.

The School Crosswalk Warning Assembly is placed adjacent to the school crosswalk to show the driver the location of the crosswalk. Drivers should be prepared to stop at the crosswalk.

The School Speed Limit Assembly is placed in advance of the school crosswalk. The exact location is determined by the posted speed limit. The speed limit of 20 MPH is in effect only when the attached lights are flashing.

The reduced speed in a Reduced Speed School Zone is in effect between the School Speed Limit Assembly and the "End School Zone" sign. The "End School Zone" sign is generally located 50-feet beyond the school crosswalk.



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Take Home

- ▶ Acting like an ostrich can be as bad as acting poorly.



- ▶ Realize that responsibility may exist.
- ▶ Approach your local school district to begin dialogue.

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THANK YOU!

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